

Message Text

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12

ACTION EB-11

INFO OCT-01 AF-10 EUR-25 ISO-00 AID-20 CIAE-00 COME-00

FRB-02 INR-10 NSAE-00 RSC-01 TRSE-00 XMB-07 OPIC-12

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FM AMEMBASSY TANANARIVE

TO SECSTATE WASHDC 5676

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E. O. 11652: DECON 9/27/74

TAGS: EFIN, ECON, MA

SUBJ: GOMR PUBLISHES NEW INVESTMENT CODE

DEPT PASS TO COMMERCE

1. SUMMARY: NEWLY PUBLISHED MALAGASY INVESTMENT CODE APPEARS TO BE CONSIDERABLY LESS ATTRACTIVE FOR FOREIGN INVESTORS THAN CODE DEVELOPED UNDER PREVIOUS GOVT. NUMBER OF BENEFITS SUCH AS TAX HOLIDAYS HAVE BEEN REDUCED. NEW CODE LEAVES ARRANGEMENTS FOR PROFITS AND CAPITAL REPATRIATION TO BE WORKED OUT BY EACH NEW INVESTOR WITH GOMR. ANOTHER NEW DECREE PROVIDES FOR TRANSFER OF CAPITAL OVER PERIOD OF YEARS FOR FOREIGNERS LEAVING COUNTRY FOR GOOD. END SUMMARY.

2. IN SEPT 21 EDITION OF "JOURNAL OFFICIEL", GOMR PUBLISHED ITS LONG-AWAITED NEW INVESTMENT CODE APPLICABLE TO BOTH FOREIGN AND DOMESTIC INVESTORS. ALTHOUGH MANY SECTIONS OF CODE ARE IDENTICAL TO THOSE OF PREVIOUS INVESTMENT CODE, THERE ARE SEVERAL CHANGES WHICH WOULD APPEAR TO MAKE IT LESS ATTRACTIVE TO FOREIGN INVESTORS. FIRST REFLECTING PRESENT GOVT'S POLICY TO EXPAND ITS CONTROL OVER ECONOMY, NEW CODE REQUIRES THAT ALL NEW INVESTMENT HAVE PRIOR APPROVAL OF GOMR. PREVIOUSLY, MOST TYPES OF INVESTMENT REQUIRED NO SUCH APPROVAL. NEW CODE ALSO INDICATES CERTAIN ACTIVITIES WILL BE RESERVED FOR STATE AND INDICATES PRIORITY IN PRIVATE SECTOR WILL BE GIVEN TO ARTISANS

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AND SMALL-SIZED ENTERPRISES (MOVE OBVIOUSLY AIMED AT HELPING DEVEL-

OPMENT OF MALAGASY BUSINESSES.)

3. UNDER NEW CODE, FIRMS APPROVED FOR SPECIAL STATUS ARE ELIGIBLE FOR CERTAIN BENEFITS SUCH AS TAX HOLIDAYS. HOWEVER, NUMBER OF SUCH BENEFITS IS LESS THAN BEFORE AND TIME LIMIT FOR SPECIAL STATUS HAS BEEN REDUCED FROM 10 TO 5 YEARS, WITH NO RENEWAL POSSIBLE AS UNDER PREVIOUS CODE.

4. WITH RESPECT TO PROFITS AND CAPITAL REPATRIATION, NEW CODE INDICATES ONLY THAT THESE CAN BE ARRANGED WITHIN FRAMEWORK OF FOREIGN EXCHANGE CONTROL REGULATIONS. IN LIGHT PRESENT STRICT CONTROLS ON ALL FOREIGN FINANCIAL TRANSACTIONS, THIS LACK OF PRECISENESS ON THESE TWO IMPORTANT POINTS WILL PROBABLY REPRESENT MOST SERIOUS DEFICIENCY OF NEW CODE AS FAR AS FOREIGN INVESTORS ARE CONCERNED. IN EFFECT, EAKY FOREIGN INVESTOR WILL BE FACED WITH PROBLEM OF WORKING OUT WITH GOMR EVERY DETAIL OF PROFITS AND CAPITAL REPATRIATION, TASK WHICH WILL NO DOUBT PROVE TO BE ESPECIALLY DIFFICULT BECAUSE OF MALAGASY DESIRE TO SEE PROFITS GAINED BY FOREIGN FIRMS PLOWED BACK INTO ECONOMY.

5. SAME EDITION OF "JOURNAL OFFICIEL" ALSO CONTAINS NEW REGULATIONS FOR TRANSFER OF FUNDS ABROAD FOR FOREIGNERS LEAVING MADAGASCAR FOR GOOD. SINCE IMPOSITION OF TIGHT CURRENCY CONTROLS LAST YEAR, QUESTION HAS BEEN HANDLED ON CASE BY CASE BASIS. NEW REGULATIONS PROVIDE FOR GRADUATED TRANSFER OF FUNDS ABROAD OVER PERIOD OF YEARS DETERMINED ON BASIS OF SOURCE OF FUNDS, AMOUNTS INVOLVED, AND WHETHER OWNED BY INDIVIDUAL OR CORPORATION. LAW APPEARS TO BE AIMED AT ENCOURAGING SOME FOREIGN BUSINESSMEN TO LEAVE COUNTRY TO SPEED UP "MALAGASIZATION" OF ECONOMY WHILE AT SAME TIME PREVENTING SDDEN EXIT OF CAPITAL FROM COUNTRY. THESE NEW REGULATIONS MAY WELL PROVIDE BASIS FOR GOMR IN WORKING OUT CAPITAL REPATRIATION QUESTION WITH POTENTIAL FOREIGN INVESTORS.

6. EMBASSY TRANSLATIONS OF TWO LAWS BEING SENT BY AIRGRAM.MENDENHALL

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